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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/888,850	06/25/2001	Kiran Bellare	ORCL5697(OID-2000-056-01)	9434
53156	7590	01/13/2006		
YOUNG LAW FIRM, P.C. 4370 ALPINE RD. STE. 106 PORTOLA VALLEY, CA 94028			EXAMINER BEKERMANN, MICHAEL	
			ART UNIT	PAPER NUMBER
			3622	

DATE MAILED: 01/13/2006

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/888,850

Applicant(s)

BELLARE ET AL.

Examiner

Michael Bekerman

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 25 November 2005.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-74 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-74 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
  2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 103***

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. **Claims 1, 6-9, 17, 21, 26, 27, 29, 34-37, 41, 43, 47, 52-55, 63, 67, 72, and 73 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558).**

Regarding claims 1, 29, and 47, Lipin teaches a method and system involving the defining of a plurality of compensation plans (a system with multiple merchants will involve a plurality of plans) (Paragraph 0027), the exposing of at least one selected compensation plan of the plurality to the affiliate (Paragraph 0033, Sentence 8), the accepting of a selection by the affiliate of a compensation plan (Paragraph 0033, Sentence 2), and the measuring of traffic to the merchant website that originates from the affiliate website and applying the measured traffic to the compensation plan selected by the affiliate to determine the compensation due to the affiliate (Paragraph 0027). Lipin also teaches an affiliate being able to review a plurality of compensation plans exposed to the affiliate at a 3<sup>rd</sup> party site (Paragraph 0033, Sentence 8). Lipin also teaches an affiliate being able to join an individual affiliate program through a merchant site. Lipin also teaches that merchants can choose to alter various types of

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plans with different features (Paragraph 0027). Although Lipin appears to provide an example of each merchant offering only a single plan, it would have been obvious to one having ordinary skill in the art at the time the invention was made to have enabled a merchant to offer multiple plans. This would allow flexibility in signing up affiliates. Lipin doesn't teach the multiple compensation plans as being exposed through an individual merchant's website. It would have been obvious to one having ordinary skill in the art at the time the invention was made for there to be multiple links to different merchant compensation plans located on the merchant website. This would provide less stress for the affiliate while attempting to make a decision.

Referring to claims 6 and 52, Lipin teaches traffic to the merchant site as being measured according to at least one predetermined measure, the predetermined measure being generated revenue, number of orders, and click-throughs (Paragraph 0026).

Referring to claims 7, 8, 53, and 54, Lipin teaches the compensation due to the affiliate as being determined according to a fixed percentage of a predetermined measure (completed transactions) or a fixed value (Paragraph 0027, Sentence 2).

Referring to claims 9 and 55, Lipin teaches the affiliate as being compensated with currency preferred by the affiliate (the fixed amount of money) (Paragraph 0027, Sentence 2).

Referring to claims 17 and 63, Lipin teaches a step of assigning at least one compensation plan to a sub-affiliate, the affiliate being further compensated based upon

traffic to the merchant website originating from a website of the sub-affiliate (Paragraphs 0033 and 0034).

Referring to claims 21 and 67, Lipin teaches a step of registering a potential affiliate as an affiliate upon completing a registration procedure (Paragraph 0033, Sentence 3).

Referring to claims 26 and 72, Lipin teaches a step of setting up at least one link to the merchant web site on the affiliate site, the at least one link being associated with the at least one selected compensation plan selected by the affiliate (Paragraph 0018, Sentence 1).

Referring to claims 27 and 73, Lipin teaches compensation plans that implement a sales strategy of the merchant (the implementation of a commission program based on sales constitutes a sales strategy) (Paragraph 0027).

Regarding claims 34-37 can be rejected with the same teaching as claims 6-9 and 52-55. Claim 41 can be rejected with the same teaching as claims 17 and 63. Claim 43 can be rejected with the same teaching as claims 21 and 67.

**3. Claims 2-4, 10, 13-15, 22, 30-32, 38, 48-50, 56, 59-61, and 68 rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Koppelman (U.S. Pub. No. 2004/0039640).**

Regarding claims 2, 30, and 48, Lipin doesn't teach a compensation plan in which the compensation due the affiliate varies according to a predetermined date interval. Koppelman teaches a compensation plan in which sales targets are attained during a defined time period (Paragraph 0005, Sentence 1). A defined time period can

be a predetermined date interval. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the compensation plan of Koppelman within the system of Lipin. This would allow the affiliate another different compensation plan from which to choose.

Regarding claims 3, 4, 31, 32, 49, and 50, Lipin doesn't teach a compensation plan with any threshold quantity to be reached. Koppelman teaches a compensation plan in which a commission is earned according to a first percentage rate of sales until a threshold quantity is reached (number of sales), and then a commission is earned according to a second percentage rate (Paragraph 0005, Sentence 2). Koppelman also teaches the second percentage rate as being applied retroactively to the sales prior to reaching the first threshold quantity (Paragraph 0133, Sentence 5). It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the compensation plan of Koppelman within the system of Lipin. This would allow the affiliate another different compensation plan from which to choose.

Regarding claims 10, 38, and 56, Lipin doesn't teach a compensation plan using a bonus system. Koppelman teaches a compensation system in which commissions include a bonus after a threshold quantity of a predetermined measure is reached (Paragraph 0005, Sentence 2). It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the compensation plan of Koppelman within the system of Lipin. This would allow the affiliate another different compensation plan from which to choose.

Regarding claims 13, 14, 59, and 60, Lipin doesn't teach the assigning of a performance goal to the affiliate. Koppelman teaches a compensation plan including the assigning of a performance goal (quota) to an affiliate, the measuring of that affiliates performance, and the comparing of the affiliate's performance to the performance goal assigned the affiliate (Paragraph 0082). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the performance measuring system of Koppelman into the method of Lipin. This would allow merchants to better utilize their resources by only paying affiliates with better performance rates.

Regarding claims 15 and 61, Lipin doesn't teach a measuring step carried out over a selectable interval. Koppelman teaches a compensation plan including a measuring step to determine compensation over a time period (Paragraph 0005, Sentence 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Koppelman's measuring step in the method of Lipin. This would allow easier term payments for the merchant, as opposed to constant payments for every sale or click-through.

Regarding claims 22 and 68, Lipin doesn't teach a system for profiling affiliates. Koppelman teaches a compensation system with a step of profiling sales representatives (affiliates) based on the amount of sales (traffic) they attain (Paragraph 0098). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include Koppelman's step of profiling to the system of Lipin. This

would give merchants a system to easily remember which affiliate sites make them the most money.

**4. Claims 11, 12, 23, 39, 40, 44, 57, 58, and 69 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Barber (U.S. Patent No. 6,289,318).**

Regarding claims 11, 12, 39, 40, 57, and 58, Lipin doesn't specify compensation through non-monetary credits. Barber teaches a commission system in which the compensation due the affiliate includes non-monetary credits; the non-monetary credits comprising frequent flyer miles (travel miles) (Column 5, Lines 35-37). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the non-monetary credits of Barber in the method of Lipin. This would allow affiliates who don't want monetary rewards to be paid in a system more to their liking.

Regarding claims 23, 44, and 69, Lipin doesn't teach the measuring of traffic to the merchant website that originates from a site other than the affiliate website, but whose first visit to the merchant website originated from the affiliate website. Barber teaches a commission model in which a participating merchant (affiliate) can get credit for traffic going to a paying merchant's website as long as they are apart of the stream of influence that swept the traffic to that paying merchant's website (the affiliate doesn't need to be the last site visited before the paying merchant receives the traffic) (Column 6, Lines 53-61). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the stream of influence system of Barber into the compensation method of Lipin. This would allow affiliates to get credit for referring



customers to the merchant website, even if the customer didn't go to the merchant website directly from the affiliate site.

**5. Claims 5, 33, and 51 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Bezos (U.S. Patent No. 6,029,141).**

Lipin doesn't teach a compensation plan in which the compensation due the affiliate varies according to defined product categories. Bezos teaches a customer referral system compensation due the affiliate varies according to the type of product sold (Column 7, lines 41-45). Examiner interprets each product to be a separate category. It would have been obvious to one having ordinary skill in the art at the time the invention was made to implement the compensation plan of Bezos within the system of Lipin. This would allow the affiliate another different compensation plan from which to choose.

**6. Claims 18, 19, 42, 64, and 65 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Kahn (U.S. Patent No. 6,401,079).**

Lipin doesn't specify merchant being able to select a pay calendar. Lipin also doesn't teach the adding of several affiliates to a pay group. Kahn teaches a payroll system in which the employer (merchant) assigns employees (affiliates) to a payroll group, and then assigning a pay cycle (calendar) to the group (Column 36, Lines 22, 23, and 53-56). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the payroll system of Kahn in the compensation

method of Lipin. This would allow merchants to handle the payment for the affiliates in a more timely fashion.

**7. Claims 24, 25, 45, 46, 70, and 71 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Tarvydas (U.S. Pub. No. 2002/0038255).**

Lipin doesn't teach the receiving of customer authentication information from an affiliate. Tarvydas teaches a shopping system in which the customer never has to enter the merchant's site to place the order. Instead, the customer authentication and payment information is sent to the merchant through the shopping site (affiliate) accessed by the customer (Paragraph 0011, Sentence 4 and Paragraph 0012, Sentence 3). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the customer authentication method of Tarvydas in the compensation system of Lipin. This would allow the merchant site easier access to customer information and it would also allow customers the ability to place orders more quickly.

**8. Claims 28 and 74 are rejected under 35 U.S.C. 103(a) as being unpatentable over Lipin (U.S. Pub. No. 2004/0225558) in view of Joao (U.S. Pub. No. 2001/0037205).**

Lipin doesn't teach a third party that maintains a plurality of mass affiliates compensated by compensation plans that differ from the defined plurality of compensation plans. Joao teaches an apparatus for effectuating an affiliated marketing relationship that acts as a third party and manages the financial accounts for content

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providers (affiliates) (Paragraph 0021, Sentence 1). It would have been obvious to one having ordinary skill in the art at the time the invention was made to include the third party affiliate managing apparatus of Joao in the system of Lipin. This would allow the affiliates to keep their accounts better organized.

### ***Response to Amendment***

9. In response to the 103 rejection, applicant argues that Lipin does not teach or suggest "the merchant [as being able] to tailor their affiliate program to potential affiliates". Applicant further argues, "Lipin unambiguously teaches that affiliates can choose to join (or not) the merchant's single affiliate program". Paragraph 0027 of Lipin teaches each merchant as being able to establish it's own revenue program, and gives 3 examples of different revenue programs that could be offered. Since the system is capable of handling more than one affiliate revenue program, there is an obvious motivation for each merchant to offer all 3 revenue options in the interest of attracting more affiliates.

### ***Conclusion***

10. **THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not


mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Michael Bekerman whose telephone number is (571) 272-3256. The examiner can normally be reached on Monday - Friday, 7:30 - 4:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eric W. Stamber can be reached on (571) 272-6724. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MB

  
JEFFREY D. CARLSON  
PRIMARY EXAMINER